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STATE FOR WHA/CEN, EB/IFD/OIA AND L/CID  
STATE FOR WHA/EPSC  
STATE PLEASE PASS TO USTR  
TREASURY FOR INL AND OWH

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TAGS: [EINV](#) [ECON](#) [USTR](#) [KIDE](#) [NU](#)  
SUBJECT: NICARAGUA: GON DISMISSES MORE PROPERTY CLAIMS

REF: A) 07 MANAGUA 2581, B) MANAGUA 0002, C) 07 MANAGUA 1789, D)  
MANAGUA 0106

SUMMARY  
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1. (SBU) During the January 31 monthly Working Group meeting on property issues, Government of Nicaragua (GON) officials passed Econoff a new list of 34 dismissed U.S. citizen claims for the lack of proof that the U.S. claimant owned the property and/or it had been expropriated. The GON insinuated that some U.S. citizens were allies of Somoza and therefore not eligible for compensation. GON officials added that they could not do anything about U.S. claims already in court. We have requested a six-month review of the 2007-08 waiver year to reiterate the Secretary's Section 527 benchmarks, and to restate our expectations for GON cooperation.

#### GON PRESENTS SECOND LIST OF DISMISSED U.S. CITIZEN CLAIMS

2. (SBU) During the January 31 monthly Working Group meeting on property claims with Econoff, Property Superintendent Yara Perez Calero, three officials from the National Confiscations Review Commission (CNRC), and the head of the Office of Assessment and Indemnification (OCI) passed Econoff a list of 43 U.S. citizen claims that the GON dismissed as "no ha lugar" in 2007. The primary reason for dismissing the claims was the lack of proof that a U.S. claimant owned the property that had been expropriated. The GON also dismissed some claims as "inadmissible" because the claimant already possessed the property (but still needed the title) or because the matter is being handled in court. Perez asserted that claimants must either follow the administrative process or pursue the claim in court. Thirty-four of the dismissed claims were new additions and nine were from the first list of rejected cases submitted to the Embassy in November 2007 (Ref A). Throughout the meeting, Econoff pressed Perez for better cooperation on resolving U.S. citizen claims on a case-by-case basis agreed by the Ambassador and Attorney General Hernan Estrada in their December 21, 2007, meeting (Ref B).

#### ALLIES OF SOMOZA

3. (SBU) Perez said that Estrada recently instructed all GON agencies involved in property claims not to compensate claimants who had been allies of Somoza based on Decrees 3/1979 and 38/1979 [Note: Decree 3 ordered the confiscation of all goods of the Somoza family, military and government officials who had left the country since 1977; Decree 38 ordered the confiscation of properties belonging to people allied to Somocismo. End Note]. Econoff requested a list of U.S. citizen claimants that the GON considered "allies of Somoza," but Perez was noncommittal. On February 5, the Embassy Property

Office learned that at least two claims were dismissed because the U.S. citizens involved were allegedly allies of Somoza.

#### CASES STUCK IN APPEALS COURT

¶4. (SBU) Econoff requested GON assistance to advance U.S. citizen claims before the Property Appeals Court. He explained that some U.S. citizens have been waiting nine years for a decision. Moreover, the court has ruled against U.S. claimants, in apparent contradiction of Nicaraguan law, when the U.S. citizens clearly demonstrated proof of ownership and/or expropriation. Perez responded that the judicial branch is independent of the executive and there is nothing she could do in these cases.

¶5. (SBU) Comment: We are not satisfied with Perez' explanation. The Nicaraguan judicial system is politicized and lacks independence. For example, the Embassy has been actively engaged in assisting two U.S. citizens recover their property from armed squatters since January 27. The U.S. citizens filed a case in court in August 2007 to have the police remove the invaders, but no action was taken until the Ambassador called Estrada on February 1 to inform the Attorney General about the case. On February 7, the U.S. citizens reported that the police came to their property to assess how many land invaders were there, and their lawyer will now meet the judge to discuss the case (septel). End Comment.

#### SIX-MONTH REVIEW

¶6. (SBU) To conclude the meeting, Econoff told Perez that the Ambassador plans to meet Attorney General Estrada in February for a six-month review of the 2007-08 waiver year. He noted that the Ambassador will review benchmarks spelled out in the Secretary's July 31, 2007 letter to Foreign Minister Santos regarding this Section 527 waiver year. The Ambassador will propose steps to improve bilateral cooperation and advance the resolution of U.S. citizen claims.

#### COMMENT

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¶7. (SBU) Property Superintendent Yara Perez' participation stifled the constructive communication we had during our last Property Working Group meeting (Ref D). Although she resisted in-depth discussion of individual property claims, Perez seemed to understand that we were not going to let these claims go away simply because the GON wants to dismiss them. We want to use the Ambassador's six-month review to drive this point home.

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